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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,206	06/19/2003	Darko Segota	11023.5	9031

7590 05/25/2006
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EXAMINER

LEE, BENJAMIN P

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/600,206	Applicant(s) SEGOTA ET AL.	
	Examiner Benjamin P. Lee	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Examiner agrees with applicant's traverse of election/restriction dated 12/08/04. However, that election/restriction is hereby withdrawn and the following is a new election/restriction.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-25, drawn to a fuselage, classified in class 244, subclass 119.
 - II. Claims 26-37, drawn to method of influencing fluid flow, classified in class 244, subclass 204.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method of group II does not require a fuselage. The method of invention II can therefore be practiced with another materially different product such as a racecar, or any portion of an aircraft excluding the fuselage.

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4. Upon election of either Group I or Group II, Applicant should further elect a species as outlined below.

5. The application contains claims directed to the following patentably distinct species of the claimed invention:

A. Pressure recovery drop

- a. perpendicular to direction of flow of fluid;
- b. Substantially perpendicular to direction of flow of fluid;
- c. on angle with respect to direction of flow of fluid;
- d. parallel to the direction of flow of fluid;
- e. substantially parallel to the direction of flow of fluid;
- f. any combination of these (applicant must state combination).

B. Formation

- a. linear;
- b. curved;
- c. spline;
- d. any combination of these (applicant must state combination).

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C. Pressure

- a. entirely across outer fuselage surface;
- b. about only a portion of fuselage surface.

D. Fuselage of a moving body or craft

- a. rocket;
- b. aircraft;
- c. submarine;
- d. missile;
- e. torpedo;
- f. any other similar body
- g. airplane;
- h. rocket;
- i. hull of submarine;
- j. body of automobile;
- k. hull of boat;
- l. hull of ship;
- m. other similar watercraft;
- n. missile.

E. Positioning fluid flow regulator in an orientation

- a. perpendicular to direction of flow of fluid;
- b. Substantially perpendicular to direction of flow of fluid;
- c. on angle with respect to direction of flow of fluid;
- d. parallel to the direction of flow of fluid;
- e. substantially parallel to the direction of flow of fluid;
- f. any combination of these (applicant must state combination).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, from each area A-G, for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently 1, 18 and 26 are generic.

For example:

Applicant elects to prosecute the species as shown below:

Species A (b) directed to claim(s) [insert claim(s)];

Species C (a) directed to claim(s) [insert claim(s)];

Species G (e) directed to claim(s) [insert claim(s)];

Applicant is advised that a reply to this requirement **must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.**

An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of the generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).


Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin P. Lee whose telephone number is 571.272.8968. The examiner can normally be reached on Monday thru Friday 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571.272.8300.


MICHELLE CLEMENT
PRIMARY EXAMINER